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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/649,452	08/25/2003	Shmuel Shaffer	062891.1123	5754
5073	7590	05/17/2007		
BAKER BOTTS L.L.P. 2001 ROSS AVENUE SUITE 600 DALLAS, TX 75201-2980			EXAMINER TIEU, BENNY QUOC	
			ART UNIT 2614	PAPER NUMBER
			NOTIFICATION DATE 05/17/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mike.furr@bakerbotts.com  
ptomail1@bakerbotts.com

## Office Action Summary

Application No.

10/649,452

Applicant(s)

SHAFFER ET AL.

Examiner

Benny Q. Tieu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-15,17-36 and 38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,2,4-15 and 17-36 is/are allowed.
- 6) ☒ Claim(s) 38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/27/07</u>   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. A mistake was found in the last Office action regarding claim 38, therefore, the last Office action has been vacated.

#### ***Response to Amendment***

2. Applicant's amendment filed on April 27, 2007 has been entered. No Claim has been amended. Claim 37 has been canceled. Claims 1, 2, 4-15, 17-36, and 38 are still pending in this application, with claims 1, 14, 27, 32, and 38 being independent.

#### ***Claim Rejections - 35 USC § 103***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gisby (U.S. Patent No. 6,002,760) in view of Margolis (U.S. Patent Application Publication No. 2003/0235287).

Regarding claim 38, Gisby teaches a method for managing calls of an automatic call distributor, comprising:

receiving a call from a user over a first connection with a first endpoint of the user, the call comprising a request for service (incoming call from caller);

obtaining presence information of the user and associating the call with the presence information; placing the call in a queue until a suitable agent becomes available to provide the

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service to the user; establishing a virtual contact to hold a place of the call an order in the queue the first connection is terminated (column 5, lines 10-15);

establishing a second connection with the user; detecting the presence of the user associated with the second connection; and associating the second connection with the virtual contact using the detected presence of the user (column 5, lines 20-23).

Gisby fails to teach the method wherein the notification is received through instant messaging (IM) or through short message service (SMS) text messaging or updating the user of a status of the virtual contact in the queue through instant messaging or through short message service text messaging. However, Margolis teaches a virtual interaction queuing using internet protocols wherein a method includes queuing the call in a queue associated with a call center, obtaining a messaging preference of the caller, disconnecting the call, generating at least one IP-based message for the caller according to the caller's messaging preference, and transmitting the at least one IP-based message to the caller over an IP network, so as to begin a virtual interaction between the caller and the call center after the call is disconnected (paragraph [0011]). The message can be any form of an instant message or an SMS message (paragraph [0030]). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the use of IP-base message taught by Margolis to modify the teaching of Gisby in order to easy to communicate between the caller and the call center when the caller disconnects the call thereby making it more sufficient in re-establishing the communication based upon the availability of an agent.

***Allowable Subject Matter***

5. Claims 1, 2, 4-15, 17-36 are allowed.

***Response to Arguments***

6. Applicant's arguments filed December 22, 2006 have been fully considered but they are not persuasive. Applicant fails to address the teachings of Margolis as cited under 35 U.S.C.103(a) rejection in Office action mailed September 26, 2006 with Applicant's new added claim 38. Examiner believes the rejection of claim 38 above as being unpatentable over Gisby in view of Margolis is proper.

***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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8. Any response to this action should be mailed to:

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Or faxed to:

(571) 273-8300, (for formal communications intended for entry)

Or:

(571) 273-7490, (for informal or draft communications, please label  
"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to:

Customer Service Window  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benny Q. Tieu whose telephone number is 571-272-7490. The examiner can normally be reached on Monday-Friday: 6:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar can be reached on 571-272-7488. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read "Benny Q. Tieu". The signature is fluid and cursive, with a large, stylized initial "B".

Benny Q. Tieu  
Primary Examiner  
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